

Section 106 Review Process

Federal and state agencies -or the recipients of their assistance- may need to consult with MHT as part of the Section 106 process. Projects requiring review include actions with direct federal or state funding sources, permits from the Corps of Engineers; licenses from the FCC; or other action with state or federal involvement. Ultimately, the responsible agency must complete the requirements of Section 106 prior to making a final decision to fund or approve a project.

The following is an overview of the 4 steps in the Section 106 process. For more detailed information, please see the Advisory Council on Historic Preservation's [Section 106 Regulations Users Guide](#) and [A Citizen's Guide to Section 106 Review](#).

- **Step 1: Initiate Consultation:** An agency must determine, with MHT, if a proposed action is an undertaking with the potential to affect historic properties and, if so, plan to involve the public and identify consulting parties.
 - **Participants in the Section 106 Process** The agency must identify potential consulting parties, including the State Historic Preservation Officer, Tribal Historic Preservation Officer, local governments, applicants for federal assistance, interested parties, and the public. The agency must invite parties to participate in consultation and provide basic information about the undertaking to all parties. In some cases, the federal Advisory Council on Historic Preservation will also participate in consultation. [Learn more about who should be involved in consultation.](#)
- **Step 2: Identifying Historic Properties:** Agency's must identify areas where the project could directly, indirectly, or cumulatively affect historic properties. This identification is known as Area of Potential Effect - APE for short. The agency must also gather information to determine which properties in the APE are listed in or eligible for listing in the National Register of Historic Places. [Learn more about Resource Identification in MD.](#)
- **Step 3: Assessing Effects on Historic Properties:** The agency must determine the effects the project may have on any historic properties identified in the APE by applying the criteria of Adverse Effects.
- **Step 4: Resolving Adverse Effects:** When a proposed project will have an adverse effect on historic properties, the agency must explore alternatives to avoid, minimize, or mitigate those effects. MHT seeks to prevent adverse effects on historic and archeological properties through consultation. Sometimes adverse effects are unavoidable given project need, environmental or design constraints, emergency situations, or other requirements.

Ultimately the historic preservation review process does not prescribe an outcome. It is a consultative and deliberative process. Agencies through consultation with MHT and relevant parties, must balance multiple and often conflicting concerns to make sound project planning decisions. MHT review helps ensure compliance with preservation laws and promotes the appropriate stewardship of Maryland's heritage resources.

Agencies should be aware that certain local jurisdictions administer their own historic preservation review process. Local reviews are handled independently from the Section 106 process; they may generate helpful information that informs Section 106 consultation. MHT encourages state and federal agencies to coordinate the local review process in advance of Section 106 consultation, where applicable. Contact the appropriate local jurisdiction for information on pertinent requirements.